

AMENDED IN ASSEMBLY JUNE 15, 2016

AMENDED IN SENATE APRIL 19, 2016

AMENDED IN SENATE APRIL 4, 2016

SENATE BILL

No. 1091

Introduced by Senator Liu

February 17, 2016

An act to add Sections ~~10231.3, 10233.8, and 10231.3~~ and 10235.9a to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1091, as amended, Liu. Long-term care insurance.

Under existing law, the Department of Insurance, headed by the Insurance Commissioner, licenses and regulates insurers. Existing law divides insurance into various classes, including long-term care insurance, which includes an insurance policy, certificate, or rider advertised, marketed, offered, solicited, or designed to provide coverage for diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services that are provided in a setting other than an acute care unit of a hospital. Existing law defines "policy" for these purposes.

This bill would, among other things, define "alternate plan of care" as a plan of care authorized by a provision in a policy, rider, endorsement, or amendment that allows benefits for long-term care services that are not specifically defined as a covered service under the policy. ~~The bill would prohibit an insurer from designating, advertising, marketing, offering, or soliciting a policy as "family-friendly," "catastrophic," "short-term," or "standardized," unless the respective policy contains specified provisions.~~

~~Existing law requires an insurer to report annually by June 30 to the department the total number of claims denied by each class of business in the state, as specified, and to provide a policyholder or certificate holder whose claim is denied written notice of the reasons for denial, as specified. Existing law requires the department to provide that information to the public upon request.~~

~~This bill would require an insurer to report information to the department regarding denial of requests for treatment under an alternate plan of care, and to provide a policyholder or certificate holder written notice of denial of a request for treatment under an alternate plan of care. The bill would require the department to provide that information to the public upon request.~~

The bill would authorize, for policies issued on or after January 1, 2017, the insured or an insurer to propose an alternate plan of care. The bill would prohibit the maximum benefit available under the contract from being changed based on an insured utilizing an alternate plan of care but would authorize the maximum benefit to be reduced by any approved alternate plan of care costs. The bill would also require an insurer to provide a written explanation to the policyholder or certificate holder as to the specific reason an agreement cannot be reached for policies or certificates that contain an alternate plan of care provision, as specified.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares both of the
- 2 following:
- 3 (a) Long-term care insurance is a vital lifeline for many of
- 4 California's aging population.
- 5 (b) Ensuring that the insurance available to consumers is fair
- 6 and accessible is essential to our aging community's quality of
- 7 life.
- 8 SEC. 2. It is the intent of the Legislature to ensure that
- 9 insurance products provide appropriate benefits that fit consumers'
- 10 needs.
- 11 SEC. 3. Section 10231.3 is added to the Insurance Code, to
- 12 read:

1 10231.3. (a) *For the purposes of this section, the following*
2 *terms apply:*

3 (1) An “alternate plan of care” means a plan of care authorized
4 by a provision in a policy, rider, endorsement, or amendment that
5 allows benefits for long-term care services that are not specifically
6 defined as a covered service under the policy.

7 (2) “*Licensed health care practitioner*” means a physician,
8 registered nurse, licensed social worker, or other individual whom
9 the United States Secretary of the Treasury may prescribe by
10 regulation.

11 (3) “*Plan of care*” means a written description of the insured’s
12 needs and a specification of the type, frequency, and providers of
13 all formal and informal long-term care services required by the
14 insured and the cost, if any.

15 (b) An alternate plan of care may be proposed by the insured
16 or the insurer. Adoption, amendment, or replacement of an
17 alternate plan of care shall be agreed to by the insured, the insurer,
18 and a licensed health care practitioner. Consent or agreement to
19 an alternate plan of care shall be free and mutual.

20 (c) The maximum benefit available under the contract shall not
21 change based on an insured utilizing an alternate plan of care,
22 but that benefit will be reduced by any alternate plan of care costs
23 that are approved. Nothing in this section shall prohibit an insurer
24 from requiring that an alternate plan of care be a cost-effective
25 alternative.

26 (d) Nothing in this section shall be construed to require an
27 insurer to include a provision authorizing an alternate plan of
28 care.

29 (e) This section shall apply to policies issued on or after January
30 1, 2017.

31 ~~SEC. 4. Section 10233.8 is added to the Insurance Code, to~~
32 ~~read:~~

33 ~~10233.8. (a) An insurer shall not designate, advertise, market,~~
34 ~~offer, or solicit a policy as “family-friendly” unless the policy~~
35 ~~provides both of the following:~~

36 ~~(1) A coordination benefit as described in paragraph (1) of~~
37 ~~subdivision (b) of Section 22005.1 of the Welfare and Institutions~~
38 ~~Code.~~

39 ~~(2) One or both of the following benefits:~~

1 ~~(A) Permits family members to provide the care covered under~~
2 ~~the policy and provides caregiver training.~~

3 ~~(B) Provides one or both of the following benefits:~~

4 ~~(i) Credit for unused benefits granted to another insured in the~~
5 ~~same family.~~

6 ~~(ii) An annuity or death benefit assignable to the caregiver or~~
7 ~~that covers legal services related to the care of a person, including~~
8 ~~the preparation of a power of attorney, a health care power of~~
9 ~~attorney or advance directive, or legal representation in a~~
10 ~~conservatorship proceeding involving the person.~~

11 ~~(b) An insurer shall not designate, advertise, market, offer, or~~
12 ~~solicit a policy as a “catastrophic policy” unless the insured retains~~
13 ~~substantial risk before the insured becomes eligible to receive~~
14 ~~benefits.~~

15 ~~(c) An insurer shall not designate, advertise, market, offer, or~~
16 ~~solicit a policy as a “short-term policy” unless the policy provides~~
17 ~~benefits designed to last for a time period of less than one year.~~

18 ~~(d) An insurer shall not designate, advertise, market, offer, or~~
19 ~~solicit a policy as a “standardized policy” unless the policy meets~~
20 ~~standardized benefit levels and other criteria as determined by the~~
21 ~~commissioner.~~

22 ~~SEC. 5.~~

23 ~~SEC. 4.~~ Section 10235.9a is added to the Insurance Code,
24 immediately following Section 10235.9, to read:

25 ~~10235.9a. (a) An insurer shall provide a policyholder or~~
26 ~~certificate holder, whose request for treatment under an alternate~~
27 ~~plan of care has been denied, a written notice within 40 days of~~
28 ~~the date of the denial, including the reasons for the denial and all~~
29 ~~information directly related to the denial.~~

30 ~~(b) An insurer shall report to the department by June 30 of each~~
31 ~~year, together with the information required pursuant to Section~~
32 ~~10235.9, the number of requests from insureds for treatment to be~~
33 ~~provided under an alternate plan of care, any reason used by the~~
34 ~~insurer to deny those requests, and the number of requests denied~~
35 ~~for each of those reasons.~~

36 ~~(c) The department shall make available to the public, upon~~
37 ~~request, the information obtained pursuant to subdivision (b).~~

38 ~~10235.9a. For policies or certificates issued on or after January~~
39 ~~1, 2017, that contain an alternate plan of care provision pursuant~~
40 ~~to Section 10231.3, if an insurer and insured cannot agree on the~~

1 *terms of an alternate plan of care, the insurer shall provide a*
2 *written explanation to the policyholder or certificate holder as to*
3 *the specific reason or reasons why the agreement cannot be*
4 *reached.*

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